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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,547	01/22/2002	Bernard A. Traversat	5681-07000	8857

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EXAMINER
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SERRAO, RANODHI N

ART UNIT	PAPER NUMBER
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2141

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/055,547	TRAVERSAT ET AL.	
	Examiner	Art Unit	
	Ranodhi Serrao	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20,22-81 and 83-99 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20,22-81 and 83-99 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments, filed 06 February 2007, regarding the rejection of claims 39-45, 48, 49, 86-89, and 98 under 35 U.S.C. have been fully considered but they are not persuasive. However due to the improper final office action as indicated by the applicant, the previous office action has been withdrawn.
2. The applicant argued that *the Examiner has repeatedly failed to state a proper prima facie obviousness-type double patenting rejection*. The examiner has withdrawn the previous double patenting rejection. However, upon further consideration, a new double patenting rejection has been applied meeting every limitation of the independent claim. See below.
3. **Examiner's Note:** Examiner has cited particular columns and line numbers or paragraphs in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention, as well as the context.
4. The applicant argued that the cited passage of Rochberger *describes uplink advertisements, which are used to indicate to a node in a peer group which border nodes have connectivity to higher level nodes. Therefore, rather than being an advertisement for a peer group, these uplinks are advertisements for these higher level*

*nodes that the peer group may be connected to through a border node.* The examiner points to col. 15, lines 47-59, wherein Rochberger explicitly states, "First, a list of all border nodes within a **peer group** is created and maintained (step 50). Nodes placed on the list are **nodes that advertised** at least one uplink." Emphasis added. This citation obviously reads on the claimed advertisement for a peer group.

5. The applicant furthermore argued that *while this citation describes identifiers of peer groups (peer group IDs), these peer group IDs are not described as having anything to do with a peer group advertisement, nor with the uplink advertisements cited by the Examiner as being analogous to Applicants' peer group advertisements.* This is however incorrect since Rochberger states in col. 9, lines 24-43 that, "A 'border node' has at least one link that crosses the peer group boundary. Hence, neighboring nodes with different peer group IDs are border nodes of their respective peer groups." It is clear from this citation that the peer group IDs relate to the peer groups mentioned above and are advertised.

6. The applicant also argued that the hosted services of Weisman *are also not a common set of services to be instantiated by members of a peer group, but are services instantiated on individual hosted devices (software modules on the peer networking host) connected to the network through the peer networking host.* The examiner points out that the rejection did not cite Weisman as teaching members of a peer group. The rejection cited Weisman to teach "a description of a common set of services to be instantiated by peer nodes or devices." Moreover, Weisman teaches, "For hosting by the Device Host, the Hosted Devices and Bridges 108-110 (FIG. 1) register their

services with the Registrar 150 (via a registrar interface described below), including providing discovery, presentation and control information for their services so that the Device Host can respond to discovery, presentation and control requests from other peer networking devices 120-122 for the Hosted Devices and Bridges,” in ¶ 44 and “When a device is added to the network, the UPnP discovery protocol allows that device to advertise its services to control points on the network,” in ¶ 840. Therefore Weisman clearly teaches the claimed limitations.

7. Moreover, the applicant argued that *there is nothing in Rochberger’s passage that teaches or suggests a membership service advertisement indicating how other peers may request to join a peer group, nor that such a membership service advertisement is comprised in a peer group advertisement, as required by claim 39*. In col. 3, lines 39-65, Rochberger describes a peer node joining a peer group by stating, “As described previously, when a node first learns about the existence of a neighboring peer node which resides in the same peer group, it initiates the database exchange process in order to synchronize its topology database with that of its neighbor’s.” The claim language is to be broadly interpreted, and this citation clearly teaches the claimed limitations.

8. The applicant also argued that Weisman *clearly does not describe publishing an advertisement for a peer group, but describes publishing software modules (which are instantiated on the peer networking host) through the device host API*. The examiner points out that Weisman is not cited to teach a peer group, Rochberger is. It would have been obvious at the time of the invention to combine the teachings of the related prior

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art of Weisman and Rochberger to teach the claimed invention as shown in the rejections.

9. As per the arguments concerning claims 40-45, 49, 86-89, and 98, since Rochberger has been shown to teach an advertisement for a peer group, the rejections stand.

10. The examiner points out that the pending claims must be "given the broadest reasonable interpretation consistent with the specification" [In re Prater, 162 USPQ 541 (CCPA 1969)] and "consistent with the interpretation that those skilled in the art would reach" [In re Cortright, 49 USPQ2d 1464 (Fed. Cir. 1999)]. In conclusion, upon taking the broadest reasonable interpretation of the claims, the cited references teach all of the claimed limitations. And the rejections are reaffirmed. See below.

### ***Double Patenting***

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29

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USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

12. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

13. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 1-20, 22-81, and 83-99 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-116 of copending Application No. 10/055773. Although the conflicting claims are not identical, they are not patentably distinct from each other because of their similarities. See comparison table below.

15. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

**Comparison Table**

10/055,547 (claim 39)	10/055773 (claims 1, 3, 32, and 35)
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<p>A peer node, comprising: a processor; a network interface operable to couple the peer node to a network; a memory operable to store program instructions, wherein the program instructions are executable by the processor to:</p>	<p>(Claim 1) A peer computing system comprising: a plurality of peer nodes operable to couple to a network; wherein the plurality of peer nodes are configured to implement a peer-to-peer environment on the network according to a peer-to-peer platform comprising:</p>
<p>create an advertisement for a peer group in accordance with a protocol,</p>	<p>(Claim 3) The peer computing system as recited in claim 1, wherein each of the one or more peer-to-peer platform protocols defines one or more advertisement formats for describing and publishing advertisements for resources in the peer-to-peer environment.</p>
<p>wherein said advertisement for the peer group comprises: an identifier for the peer group;</p>	<p>(Claim 35) The peer computing system as recited in claim 1, wherein each of the plurality of peer nodes includes a unique identifier configured for use in distinguishing each peer node from the other peer nodes in the peer-to-peer environment.</p>



<p>a description of a common set of services to be instantiated within the peer group by members of the peer group;</p>	<p>(Claim 1) a service layer comprising one or more core services each provided by one or more of the plurality of peer nodes in the peer-to-peer environment, wherein at least a subset of the core services are operable to be used by the plurality of peer nodes in forming and participating in the peer groups, and wherein each of the one or more core services are configured to be accessed by the plurality of peer nodes in accordance with at least one of the one or more peer-to-peer platform protocols; wherein each of the one or more applications are configured to be accessed in accordance with at least one of the one or more peer-to-peer platform protocols, and wherein at least a subset of the one or more applications are each configured to access at least one of the one or more core services to perform application tasks in the peer-to-peer environment in accordance with at least one of the one or more peer-to-peer platform protocols</p>
<p>and a membership service advertisement indicating how others peers may request to join the peer group;</p>	<p>(Claim 32) The peer computing system as recited in claim 30, wherein the peer-to-peer platform protocols include a discovery protocol, wherein the common set of services on at least a subset of the peer groups includes a discovery service for use by member peer nodes in said peer group to discover advertised resources including peer nodes and peer groups in the peer computing system in accordance with the discovery protocol.</p>

and publish at least a portion of said advertisement for the peer group including said identifier and said membership service advertisement.	(Claim 3) The peer computing system as recited in claim 1, wherein each of the one or more peer-to-peer platform protocols defines one or more advertisement formats for describing and publishing advertisements for resources in the peer-to-peer environment.
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***Claim Rejections - 35 USC § 103***

16. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

17. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

18. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger et al. (6,456,600) and Weisman et al. (2002/0112058).

19. As per claim 39, Rochberger et al. teaches a peer node, comprising: a processor; a network interface operable to couple the peer node to a network (see Rochberger et al., col. 2, lines 24-35); a memory operable to store program instructions, wherein the

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program instructions are executable by the processor to: create an advertisement for a peer group in accordance with a protocol (see Rochberger et al., col. 11, line 58-col. 12, line 29), wherein said advertisement for the peer group comprises: an identifier for the peer group (see Rochberger et al., col. 9, lines 24-43); and a membership service advertisement indicating how other peers may request to join the peer group (see Rochberger et al., col. 9, line 66-col. 10, line 6). But fails to teach a description of a common set of services to be instantiated within the peer group by members of the peer group; and publish at least a portion of said advertisement for the peer group including said identifier and said membership service advertisement. However, Weisman et al. teaches a description of a common set of services to be instantiated by peer nodes or devices (see Weisman et al., ¶ 36); and publish at least a portion of said advertisement for the peer devices including said identifier and said membership service advertisement (see Weisman et al., ¶ 34). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. to a description of a common set of services to be instantiated by peer nodes or devices; and publish at least a portion of said advertisement for the peer devices including said identifier and said membership service advertisement in order to provide services for software and devices on a computer to expose themselves as controlled devices per a peer networking protocol (see Weisman et al., ¶ 5).

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20. Claims 40-41, 43-45 rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger et al. and Weisman et al. as applied to claim 39 above, and further in view of McCanne et al. (6,415,323).

21. As per claim 40, Rochberger et al. and Weisman et al. teach the mentioned limitations of claim 39 above but fail to teach a peer node, wherein said advertisement for the peer group further comprises a name associated with the peer group. However, McCanne et al. teaches a peer node, wherein said advertisement for the peer group further comprises a name associated with the peer group (see McCanne et al., col. 18, lines 25-48). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. and Weisman et al. to a peer node, wherein said advertisement for the peer group further comprises a name associated with the peer group in order to provide a comprehensive redirection system for content distribution in a virtual overlay broadcast network (OBN) (see McCanne et al., col. 3, lines 36-54).

22. As per claims 41 and 43-45, the above-mentioned motivation of claim 40 applies fully in order to combine Rochberger et al., Weisman et al. and McCanne et al.

23. As per claim 41, Rochberger et al., Weisman et al., and McCanne et al. teach a peer node, wherein said name associated with the peer group is obtained from a centralized naming service coupled to the network, so that said name associated with the peer group is unique within the network (see McCanne et al., col. 9, lines 28-47).

24. As per claim 43, Rochberger et al., Weisman et al., and McCanne et al. teach a peer node, wherein said advertisement for the peer group further comprises a

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description of an initial service to be instantiated by other peer nodes when joining the peer group (see McCanne et al., col. 13, line 65-col. 14, line 32).

25. As per claim 44, Rochberger et al., Weisman et al., and McCanne et al. teach a peer node, wherein said program instructions are further executable to instantiate a membership service, wherein said membership service implements a membership protocol for joining said peer group such that any peer node may apply for membership in said peer group in accordance with the membership protocol (see McCanne et al., col. 19, lines 44-48).

26. As per claim 45, Rochberger et al., Weisman et al., and McCanne et al. teach a peer node, wherein said membership service implements a membership policy for said peer group restricting which peers are allowed to join said peer group (see McCanne et al., col. 19, lines 44-48).

27. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger et al. and Weisman et al. as applied to claim 39 above, and further in view of Dutta et al. (2002/0073075). Rochberger et al. and Weisman et al. teach the mentioned limitations of claim 39 above but fails to teach a peer node, wherein said advertisement for the peer group further comprises keywords for use in indexing and discovering the peer group. However, Dutta et al. teaches a peer node, wherein said advertisement for the peer group further comprises keywords for use in indexing and discovering the peer group (see Dutta et al., ¶ 83). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al.

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and Weisman et al. to a peer node, wherein said advertisement for the peer group further comprises keywords for use in indexing and discovering the peer group in order for augmenting conventional search engine results with peer-to-peer search results (see Dutta et al., abstract).

28. Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rochberger et al. and Weisman et al. as applied to claim 39 above, and further in view of Zhang (6,810,259).

29. As per claim 48, Rochberger et al. and Weisman et al. teaches the mentioned limitations of claim 39 above but fails to teach a peer node, wherein said common set of services are shared with other members of said peer group only, so that said peer group defines a limited domain of availability for said services. However, Zhang teaches a peer node, wherein said common set of services are shared with other members of said peer group only, so that said peer group defines a limited domain of availability for said services (see Zhang, col. 17, lines 44-55). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. and Weisman et al. to a peer node, wherein said common set of services are shared with other members of said peer group only, so that said peer group defines a limited domain of availability for said services in order to provide structure on the network operating in accordance with the DCS protocol (see Zhang, col. 12, lines 8-32).

30. As per claim 49, Rochberger et al. and Weisman et al. teaches the mentioned limitations of claim 39 above but fails to teach a peer node, wherein said common set of

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services implements a protocol for joining and leaving said peer group, wherein said protocol is platform independent as to programming language implementations and network transport for said common set of services. However, Zhang teaches a peer node, wherein said common set of services implements a protocol for joining and leaving said peer group, wherein said protocol is platform independent as to programming language implementations and network transport for said common set of services (see Zhang, col. 19, lines 9-35). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Rochberger et al. and Weisman et al. to a peer node, wherein said common set of services implements a protocol for joining and leaving said peer group, wherein said protocol is platform independent as to programming language implementations and network transport for said common set of services in order to provide structure on the network operating in accordance with the DCS protocol (see Zhang, col. 12, lines 8-32).


31. Claims 86-89 and 98 have similar limitations as to claims 39-45, 48, and 49; therefore, they are being rejected under the same rationale.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ranodhi Serrao whose telephone number is (571)272-7967. The examiner can normally be reached on 8:00-4:30pm, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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SUPERVISORY PATENT EXAMINER